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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/688,278	10/16/2003	Tim Stanley	19538-07295	3779
758	7590	12/13/2007		
FENWICK & WEST LLP SILICON VALLEY CENTER 801 CALIFORNIA STREET MOUNTAIN VIEW, CA 94041			EXAMINER RENWICK, REGINALD A	
			ART UNIT	PAPER NUMBER
			3714	
			MAIL DATE	DELIVERY MODE
			12/13/2007	PAPER

**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

## Office Action Summary

Application No.

10/688,278

Applicant(s)

STANLEY ET AL.

Examiner

Reginald A. Renwick

Art Unit

3714

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

### Status

- 1) ☒ Responsive to communication(s) filed on 6/6/2007.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

### Disposition of Claims

- 4) ☒ Claim(s) 1-21 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-21 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 06 June 2007 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

### Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
  - ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

### Attachment(s)

- ☒ Notice of References Cited (PTO-892)
- ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- ☒ Information Disclosure Statement(s) (PTO/SB/08)  
Paper No(s)/Mail Date See Continuation Sheet.
- ☐ Interview Summary (PTO-413)  
Paper No(s)/Mail Date. \_\_\_\_\_.
- ☐ Notice of Informal Patent Application
- ☐ Other: \_\_\_\_\_.

Continuation of Attachment(s) 3). Information Disclosure Statement(s) (PTO/SB/08), Paper No(s)/Mail Date :10/03/2006; 4/26/2006; 6/21/2005.

## DETAILED ACTION

### *Information Disclosure Statement*

The Information Disclosure Statements filed on 2/5/2007, 10/3/2006, 4/26/2006 and 6/21/2005, cited by Applicant have been considered for review in the examination of the disclosed invention.

### *Claim Rejections - 35 USC § 102*

1. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

2. Claim 1, 6, 11, 12, 13, 14, 15, and 20 are rejected under 35 U.S.C. 102(b) as being anticipated by Cumbers (U.S. Patent No. 6,554,705).

Re claim 1: Cumbers discloses a player tracking and identification system that uses facial recognition method to automatically restrict access to a casino gaming machine, the method comprising: storing the facial identification of customers whose backgrounds warrant them restricted from game machines; receiving electronically at the casino an indication that the customer is attempting to use a gaming machine at the casino; and

Art Unit: 3714

electronically preventing the gaming machine from being played by the customer; and notifying an employee of the casino that the customer is attempting to use the gaming machine (column 4, lines 15-52; column 8, lines 14-37, 57-67; column 9, line 1-21).

Re claim 5: Cumbers discloses storing a log entry in the customer account, the entry including details of the restriction (column 4, lines 40-51).

Re claim 6: Cumbers discloses multiple reasons for the restriction of certain players including bounced checks and cheating (column 2, lines 35-40).

Re claims 11: Cumbers discloses that the facial recognition is used to identify cheats and undesirables who are restricted from gambling at the casino. Certainly, it is inherent that the restriction based on cheating is on an involuntary basis.

Re claims: 12 and 13: Cumbers discloses the use of the facial recognition in situations involving commercial transactions (column 4, lines 15-21) including events at the cash register. It is inherent that commercial transactions include cashing a check and obtaining credit.

Re claim 14: Cumbers discloses restricting using a game machine by an undesirable customer (column 4, lines 15-52; column 8, lines 14-37, 57-67; column 9, line 1-21).

Art Unit: 3714

Re claim 15: Cumbers discloses that the facial recognition system is used to monitor games at table games (column 6, lines 11-23; column 9, 59-64).

Re claim 20: The disclosed FID library of Cumbers can be easily stored on a database and software on a compact disk or an optical disk drive as that is the most likely place where the computer processor would search to identify a specific file because it provides the fastest response time to computer instruction. It is obvious to try to store the file library and program of Cumbers on a computer readable medium as one who is skilled in the art could identify a computer readable medium as readily being used for backing up and storing data.

***Claim Rejections - 35 USC § 103***

3. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

4. Claims 3 and 19 are rejected under 35 U.S.C. 103(a) as being unpatentable over Cumbers in view of Nelson (U.S. Patent No. 6,843,725).

Re claim 3 and 19: Cumbers discloses alerting security of a player attempting to access a game machine who is restricted from game access, however Cumbers does not

Art Unit: 3714

disclose identifying the location of the game machine. Therefore attention should be directed to Nelson who discloses a method and apparatus for monitoring or controlling a game machine based on gaming location, that locates a gaming machine utilizing transmitters and emitters (Abstract). It would have been obvious to one skilled in the art at the time the invention to combine the facial recognition system of Cumbers with the gaming machine location system of Nelson because it is a reasonable assumption that when security is alerted to the gaming machine of Cumbers, the location of gaming machine would be necessary as one could easily locate the restricted player using the method of Nelson for the removal of the restricted player who if not removed would attempt to access other gaming machines.

5. Claims 4, 9, and 21 are rejected under 35 U.S.C. 103(a) as being unpatentable over Cumbers in view of Lapier et al (U.S. Patent No. 7,016,876).

Re claim 4: Cumbers significantly meets the limitations of claim 2, except for disclosing the use of the facial recognition game machine at a plurality of casinos and that the second casino receives electronically an indication that the customer is attempting to use a gaming machine located at the second casino, and electronically preventing the gaming machine from being played by the customer at the second casino based upon the stored indication in the account associated with the customer. However, Lapier discloses a system and method for utilizing an exclusion list databases for casinos in

Art Unit: 3714

which a database identifying individuals listed on a gambler's exclusion list is created by a state's gaming commission (Abstract). Subsequently multiple casinos can connect to the database at the host computer to ensure that players who are on the exclusion list, do not have access to the casino (column 3, lines 61-67; column 4, lines 1-14).

Furthermore, Lapier discloses that biometric data would be associated to identities of those on the exclusion list in the future. Because Cumbers is reliant on biometric data to identify patrons, one who is skilled in the art would assume that Cumbers would access the exclusion list database of Lapier for biometric data regarding self-excluded players who because of their self-excluded status and the penalties from their attendance at a casino would be considered undesirable patrons. Furthermore, for a second and multiple casinos to restrict players bade on the method disclosed in the instant application, one who is skilled in the art such as a casino executive, would simply use the game machines of Cumbers in multiple casino and connect to exclusion list database as disclosed by Lapier and incorporate the information into the security file for the facial recognition of undesirable patrons. It would have been obvious to one skilled in the art at the time the invention was made to combine the game machine of Cumbers with the exclusion list of Lapier to aid in preventing patrons on the state exclusion list from entering the casino establishment which as a result would limit the fines and penalties for casinos that accidentally allow in patrons on the list.

Re claim 9: Cumbers discloses in addition to the facial recognition system, a card in system for identifying patrons whereby the insertion of the card open up the



Art Unit: 3714

corresponding player's tracking account file in a tracking data structure (column 7, lines 49-58. Cumbers lacks determining from the retrieved customer account that the customer's gaming activity should be restricted. However, Cumbers does disclose that the previous customers who attended the casino facility and committed an undesirable act are now no longer welcomed at the facility and would be identified using their stored data and the facial recognition equipment. One skilled in the art would appreciate that after a patron has been declared undesirable, all account information including information accessed by their card would be placed in the security file and when accessed by activation of the identification card, security will be alerted similarly to how security is alerted to when undesirable patrons are caught by the facial recognition system. Because Cumbers already provides the structure for a card-in identification as well as for a game restriction method at game machine using facial identification methods of accessing the customer account, and thus it would have been obvious for one skilled in the art to simply substitute the card-in identification system for the facial recognition system for the purpose of accessing accounts, which would produce the predictable results of restricting customers from a game machine.

Re claims 21: The disclosed database of Lapier that is accessed and managed by casinos is disclosed as being located on a host computer, which uses a hard drive and memory to store the program, and this qualifies as a computer readable medium.

Furthermore many software programs such as Microsoft Excel® that access the database was available on compact disc at the time the invention was made.

6. Claims 7, 8, 10, 16, 17, and 18 are rejected under 35 U.S.C. 103(a) as being unpatentable over Cumbers in view of Mississippi Gambling Commission.

Re claims 7, 8, 10, 16, and 17: Cumbers discloses the exclusion of a player from casino game machines because they are believed to be undesirable patrons, but Cumbers does not disclose including an extent of the restriction nor the period of the restriction, nor that the exclusion can be voluntary. However, the Mississippi Gaming Commission state that casinos must offer a patrons the opportunity to restrict themselves based on a self-exclusion program where there access to the casino must revoked for the following: "the property of the licensee, the issuance of gaming credit from the licensee, check cashing privileges offered by the licensee, direct marketing of gaming opportunities, including telemarketing and direct mail; or promotions conducted by the licensee". Furthermore this period of self-exclusion "shall be effective for a minimum period of two years." In addition the instant application discloses that the claimed invention bars patrons from accruing comps. The Mississippi Gaming Commission state that patrons who under self-exclusion are barred from the property of the licensee. It is the opinion of the examiner that items considered to be comps such as hotel rooms, beverages, tickets to events, are considered property of the casino. Because Cumbers discloses removing undesirables from a casino and the Mississippi Gambling Commission determines that patrons who self-exclusion from a casino are undesirable due to the penalties that would occur on the casino, and therefore It would have been obvious at

Art Unit: 3714

the time the invention was made to combine the self-exclusion list of the Mississippi Gambling Commission with the facial recognition system of Cumbers because the facial recognition system would recognize patrons on the self-exclusion list and remove them from the casino, which save the casino from impending fines.

Re claim 18: The game machine of Cumbers alerts security when patrons who are undesirables attempt to access a game machine. Regardless of specific casino, whether at a first, second, or third casino, when the invention of Cumbers is used in a casino it will alert security in the particular security of the issue (column 4, lines 15-52; column 8, lines 14-37, 57-67; column 9, line 1-21).

### ***Conclusion***

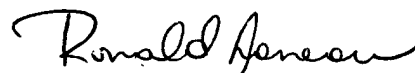
Any inquiry concerning this communication or earlier communications from the examiner should be directed to Reginald A. Renwick whose telephone number is 571-270-1913. The examiner can normally be reached on Monday-Friday, 7:30AM-5:00PM, Alt Fridays, EST.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Robert Pezzuto can be reached on 571-272-6996. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Art Unit: 3714

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

9/28/2007  
Reginald Renwick



RONALD LANEAU  
PRIMARY EXAMINER

10/01/07